

Applicants were also required to elect a single species of the claimed composition:

- 1) a single antifungal active pharmaceutical ingredient, e.g., itraconazole, saperconazole, or ketoconazole;
- 2) a single bulking agent, e.g., mannitol or microcrystalline cellulose;
- 3) a single disintegrant, e.g., croscarmellose sodium or a mixture of croscarmellose sodium and crospovidone;
- 4) a single binding agent, e.g., polyvinyl pyrrolidone; and
- 5) a single acid, e.g., hydrochloric acid.

Applicants accordingly elect a species having: itraconazole as the antifungal active pharmaceutical ingredient; microcrystalline cellulose as a bulking agent; croscarmellose sodium as a disintegrant; polyvinyl pyrrolidone as a binding agent; and hydrochloric acid as an acid. Claims readable upon this species include Claims 1-14, 16, and 18-19.

Claims 21-28, 30-42, 44, and 46-47 (Group III) are hereby withdrawn from consideration. Applicants reserve the right to file a divisional application directed to the non-elected subject matter of Group II and Group III.

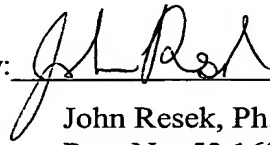
Applicants believe that the claims of Group I and Group II are sufficiently related as to form a single general inventive concept under 35 U.S.C. § 121, and therefore request that the restriction between these groups be withdrawn. Applicants respectfully submit that at least Group II should be examined with Group I because searching and examining both groups together would not impose a serious burden on the Examiner. These Groups are directed toward a composition and a method of treatment by administering that composition. Indeed, the Restriction Requirement itself notes that these compounds are classified in the identical class and subclass (class 424, subclass 489). Applicants believe that it would not place an undue burden on the Examiner to search using the PTO's classification system for art related to the claims of Groups II while conducting a search for art related to the claims of Group I. Accordingly, Applicants respectfully request that all of the claims in Groups I and II be examined together.

CONCLUSION

An action on the merits is respectfully requested. If there are any issues outstanding after consideration of this election, the Examiner is invited to contact the undersigned to expedite prosecution of this case.

Respectfully submitted,
KENYON & KENYON

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